

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 12-0045 (SRN/JJG)

Plaintiff,

v.

Mark Edward Wetsch,

ORDER

Defendant.

Deidre Y. Aanstad and Kevin S. Ueland, Office of the United States Attorney, 300 South Fourth Street, Suite 600, Minneapolis, Minnesota 55415, for Plaintiff United States of America

Mark Edward Wetsch, Sherburne County Jail, 13880 Business Center Drive NW, Elk River, Minnesota 55330, Pro Se

Jordan Kushner, Law Office of Jordan S. Kushner, 431 South Seventh Street, Suite 2446, Minneapolis, Minnesota 55415, Standby Counsel for Defendant

SUSAN RICHARD NELSON, United States District Judge

This matter is before the Court on Defendant's Motion for Reconsideration of Early Disclosure of Jencks Act Material [Doc. No. 171]. The Court construes this as an appeal of Magistrate Judge Graham's Order of August 28, 2012 [Doc. No. 64].) "The standard of review applicable to an appeal of a magistrate judge's order on a nondispositive issue is extremely deferential." Reko v. Creative Promotions, Inc., 70 F. Supp.2d 1005, 1007 (D. Minn. 1999). This Court will reverse such an order only if it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a); D.

Minn. LR 72.2(a).

In the Order of August 28, 2012, Magistrate Judge Graham denied Defendant's Motion for Early Disclosure of Jencks Act Materials, as the Government agreed to produce such evidence no later than three days prior to trial. (Order of 8/28/12 at 3 [Doc. No. 64].) The Government is not required to disclose the names or statements of its witnesses prior to the trial of the case. 18 U.S.C. § 3500 (Jencks Act); Fed. R. Crim. P. 16(a)(2). "Although in many cases the government freely discloses Jencks Act material to the defense in advance of trial [as here], the government may not be required to do so." United States v. White, 750 F.2d 726, 729 (8th Cir. 1984); United States v. Wilson, 102 F.3d 968, 971–72 (8th Cir. 1996). Having conducted the required review of this matter, the Magistrate Judge's ruling was neither clearly erroneous nor contrary to law. The appeal is therefore denied.

THEREFORE, IT IS HEREBY ORDERED that:

Defendant's Motion for Reconsideration of Early Disclosure of Jencks Act Material [Doc. No. 171] is **DENIED**.

Dated: January 7, 2013

s/Susan Richard Nelson

SUSAN RICHARD NELSON
United States District Judge